
IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

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| SOPHIA STEWART, | : | |
| Plaintiff, | : | Civil No. 2:07-cv-00552 |
| vs. | : | ORDER & RULING |
| MICHAEL T. STOLLER, JONATHAN LUBELL, DEAN WEBB, GARY BROWN and JOHN DOES I through X, | : | JUDGE CLARK WADDOUPS |
| Defendants. | | MAGISTRATE JUDGE BROOKE C. WELLS |

On July 2, 2009, Defendant Michael Stoller filed his Motion To Strike Plaintiff's Pleadings¹ In response, Plaintiff Sophia Stewart filed an objection and response to the motion.² Upon review of the pending motion, the Court now rules as stated herein and denies defendant's Motion To Strike.

¹Initially, it appears that Mr. Stoller's motion was actually filed as part of defendant's affidavit in opposition to plaintiff's motion to amend complaint. See, Docket Number 74. However, at the request of the court clerk's office, Mr. Stoller filed his motion to strike separate from his affidavit. Docket Number 76.

²Docket Number 78 and 79. Pleading entitled "Objection And Response To Jonathan Lubell, Gary Brown, Dean Webb, and Michael Stoller's Objection To Motions And Memorandums For Default Of Judgment And Motion To Strike." See also, Docket Number 82 pleading entitled "Objection To Defendant Michael T. Stoller's Motion To Strike Plaintiff's Pleadings; Points And Authorities."

In his pending motion, Mr. Stoller addresses plaintiff's failure to follow rules and procedures, ultimately requesting that this Court "strike the sham pleadings filed by the Plaintiff."³ Defendant's motion, however, is unclear as to which of plaintiff's pleadings he seeks to strike. Specifically, the Court is uncertain whether Mr. Stoller's motion seeks to strike all of plaintiff's pleadings, those pleading's most recently filed, or is in fact a motion to dismiss the entire action pursuant to Federal Rule of Civil Procedure 12(b)(6).

If Mr. Stoller's motion is characterized as a motion to dismiss, on August 28, 2008, Judge Waddoups issued a Memorandum Decision and Order⁴ denying Mr. Stoller's previously filed motion to dismiss.⁵ Moreover, if plaintiff's motion is in reference to plaintiff's recently filed pleadings, on June 14, 2009, this Court entered an Order denying plaintiff's motion for judicial notice, motion for default judgment and motion to amend.⁶ Absent additional information from defendant as to the substance of his motion, the courts' prior rulings appear to moot the pending matter.

Thus, given both the amorphous nature of the motion and the previous rulings issued by both Judge Waddoups and this court, the court hereby denies defendant's motion to dismiss.

³Docket Number 76. Defendant Stoller's Motion To Strike Plaintiff's Pleadings; Points And Authorities.

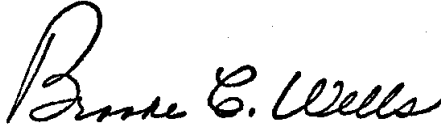
⁴Docket No. 35.

⁵Docket No. 20.

⁶Docket No. 75.

DATED this 11 day of August, 2009.

BY THE COURT:

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive style with a large initial 'B' and 'W'. Below the signature is a horizontal line.

Brooke C. Wells
United States Magistrate Judge